



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2003-0041

IN THE MATTER OF:

**PUBLIC SERVICE CO. OF COLORADO**

**d/b/a Xcel Energy**

Respondent

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**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

March 28, 2003  
DATE

SIGNED  
Alfred C. Smith  
Regional Judicial Officer



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII

**DOCKET NO.: CWA-08-2003-0041**

In the Matter of:	)	
	)	
Public Service Company of Colorado	)	
dba Xcel Energy	)	
	)	
	)	<b>EXPEDITED CONSENT AGREEMENT</b>
	)	
Respondent.	)	

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Xcel Energy, by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about April 20, 2002, and violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C.

§ 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates Valmont Station located at 1800 North 63<sup>rd</sup> Street, Boulder, Colorado.

Respondent admits that on or about April 20, 2002, its Valmont Station facility discharged approximately one gallon or less of oil into or upon a hot water canal to Hillcrest Reservoir and/or their adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the hot water canal and Hillcrest Reservoir and/or their adjoining shorelines.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for the Valmont Station in accordance with 40 C.F.R. § 112.7.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112.7 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for the Valmont Station to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,650.00; \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,150.00 for violations of Section 311(j) of the Act, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad  
Technical Enforcement Program (8ENF-T)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : **SIGNED** **3-27-03**  
Elisabeth Evans, Director Date  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Public Service Company of Colorado  
dba Xcel Energy, Respondent.

By: **SIGNED** Name: **James M. Love**

**March 26, 2003** Title: **General Manager, Power Generation**  
Date **Colorado**

## List of SPCC Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement a facility SPCC Plan in accordance with 40 C.F.R. § 112.7 [now 112.7 and 112.8].

Some of the deficiencies in the Valmont Station SPCC Plan are:

Secondary containment is inadequately addressed in violation of 40 C.F.R. § 112.7(c) [now 112.7(c) and 112.8(c)(2)]. Secondary containment appears to be inadequate to prevent a discharge to water.

Facility drainage is inadequately addressed in violation of 40 C.F.R. § 112.7(e)(1) [now 112.8(b)].

Drainage from the undiked areas is inadequately addressed in violation of 40 C.F.R. § 112.7(e)(1)(iii) [now 112.8(b)(3)].

The use of lift stations is not addressed in violation of 40 C.F.R. § 112.7(e)(1)(v) [now 112.8(b)(5)].

Monitoring plant effluent is inadequately addressed in violation of 40 C.F.R. § 112.7(e)(2)(ix) [now 112.8(c)(9)].

Does not discuss any warning/barrier system to prevent vehicles from leaving the loading/unloading rack before disconnecting the transfer lines in violation of 40 C.F.R. § 112.7(e)(4)(iii) [now 112.7(h)(2)].

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **PUBLIC SERVICE CO. OF COLORADO d/b/a XCEL ENERGY, DOCKET NO.: CWA-08-2003-0041** was filed with the Regional Hearing Clerk on March 28, 2003

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Eldon Lindt  
Team Lead, Air and Water  
Xcel Energy  
4653 Table Mountain Drive  
Golden, CO 80403

and

Commander  
Finance Center (OGR)  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

March 28, 2003

**SIGNED**

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Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MARCH 28, 2003.**